

Application No. 09/848,112
Amt. dated Feb. 5, 2004
Reply to Office action of Aug. 11, 2003

Remarks/Arguments

This Amendment is submitted in response to the Office action of August 11, 2003, along with a petition for a three month extension of time to reply making this Amendment due on or before February 11, 2004.

I. Drawings

The drawings are objected to because Figures 3, 4A and 4B appear incorrect. Particularly, it is indicated that reference "78" of Fig. 3, "90" of Fig. 4A, "86" and "96" appear questionable. Formal drawings are submitted herewith. Reference "78" of Fig. 3 has been changed to reference "79." Reference "90" of Fig. 3 has been removed. References "86" and "96" are correct as originally submitted. Reference "86" refers correctly to the cylindrical wall of the pivot ball. See Present Application, pg. 7, line 16. Reference "96" refers correctly to the aperture formed in the pivot ball. See Present Application, pg. 7, line 31.

It is believed that the formal drawings addressing the above-identified objection are in form for approval, and such indication is respectfully requested.

II. Specification

The specification is objected to as failing to provide a brief description of Figs. 4A and 4B, and for incorrectly referencing "78" on pages 6 and 7. The specification is amended herein to provide a brief description of Figs. 4A and 4B, and to correctly reference "79" in place of "78." It is believed that these changes overcome the objections to the specification.

III. Claim Objections

Claims 4, 5, 10, 16, 23, and 26 are objected to because of various issues. Claims 4, 5, 10, 16 and 23 are cancelled herein. Claim 26 is amended to properly recite "an exercise machine."

IV. Claim Rejections

Claims 1-23 are rejected herein. Particularly, claims 1-8, 10-14, 16, 17, and 23-29 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,344,374 to Telle. Claims 7-9 and 13-15 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,242,344 to ^{Hurdley}Telle. Finally, claims 16 and 18-22 are rejected under 35 U.S.C. §103 as being unpatentably over U.S. Patent 5,039,091 to Johnson.

Claims 1-23, 25, and 27-29 are cancelled herein, claims 24 and 26 are still pending, and claims 30-38 are newly submitted for consideration.

Application No. 09/848,112
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A. Claims 24 and 26

Claims 24 and 26 are rejected as being anticipated by Telle. Claim 24 has been amended to include the limitation of "wherein said handle base member further comprises an asymmetrical shape about said first axis of rotation such that when not in use said handle base member rotates to an upright position." Claim 26 as originally presented includes a similar limitation. On page 4, first full paragraph, of the Aug. 11, 2003 Office action, it is asserted that the handle of Telle "has an asymmetrical shape about the first axis of rotation 96 such that when not in use, the handle base member rotates to an upright position." Claims 24 and 26 set forth an invention that is not anticipated or rendered obvious by Telle. Claims 24 and 26 refer to the being asymmetrical about the first axis of rotation. Claim 24 recites "a handle base member rotatably attached to said arm assembly, said handle base member rotating with respect to said arm assembly about a first axis of rotation." The first axis of rotation set forth in claims 24 and 26 is quite different from the axis of rotation 96 of Telle. The axis of rotation 96 does not directly involve the member 88, supporting the handle portion of the Telle device.

As such, it is believed that claims 24 and 26 are not anticipated by Telle, in form for allowance, and such indication is respectfully requested.

B. Claims 30-38

New claims 30-38 are similar to cancelled claims 1-23, but characterize the invention differently and are believed patentable over the Telle, Hundley, and Johnson references, alone or in combination. Particularly, the Telle reference does not disclose a first axle pivotally connected with a second axle, as required by new claim 30. The Hundley and Johnson references do not disclose a generally U-shaped bracket defining a base member and supporting a gripping portion, also as required by claim 30. Thus, Telle, Hundley, and Johnson, do not anticipate new claim 30.

It is further submitted that there is no suggestion or motivation to combine the Telle reference with either the Hundley or Johnson references. Both the Hundley and Johnson references disclose a rod-like handle 184 and 180, respectively. The handles appear to be employed to simulate a golf club handle (see Fig. 1 of Hundley and Figs. 27-28 of Johnson) or other similar type sport handle. It is believed that substitution of the Telle handle for the rod-like handles of either Hundley or Johnson would render those devices unsuitable for their intended

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purposes. Thus, there is no motivation to combine the handle structure of Telle with the handle structures of either Hundley or Johnson. As such, it is believed that new claim 30 is also patentable under 35 U.S.C. § 103 over the cited references, alone or in combination.

Claims 31-38 depend from and include all of the limitations of claim 30. Thus, for at least the same reasons recited above, it is believed that claims 31-38 are patentable over the Telle, Hundley, and Johnson references.

Conclusion

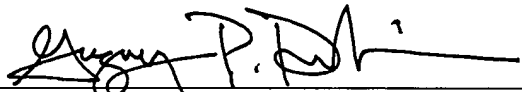
No fees are believed to be due with this Amendment other than the \$950 for a three month extension of time to respond to the August 11, 2003 Office action. A check in the amount of \$950 is enclosed. However, if any application processing fees are required, the Examiner is hereby authorized to charge deposit account number 04-1415.

The Examiner is respectfully requested to contact the undersigned via telephone to address any issues regarding the application and allowance of the pending claims.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Dated: February 5, 2004



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5/10

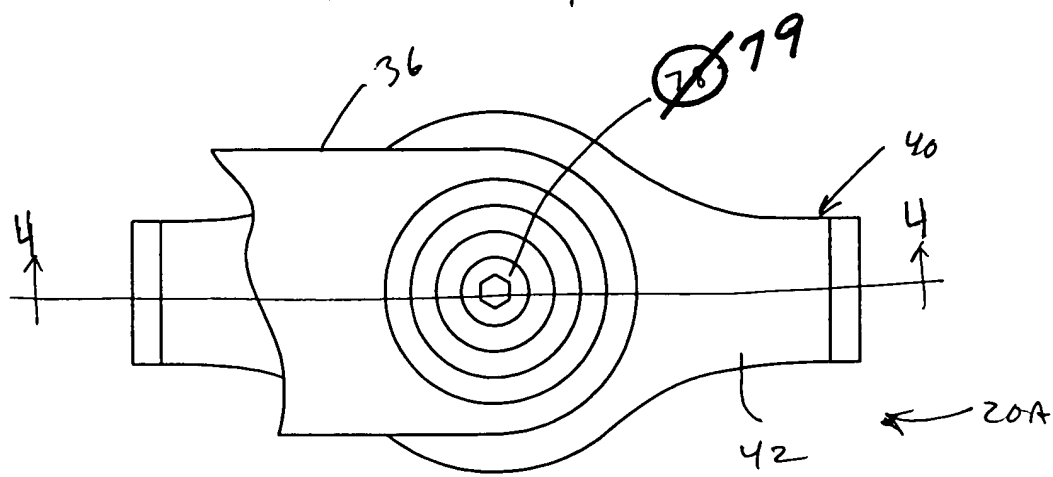


FIG. 2 3

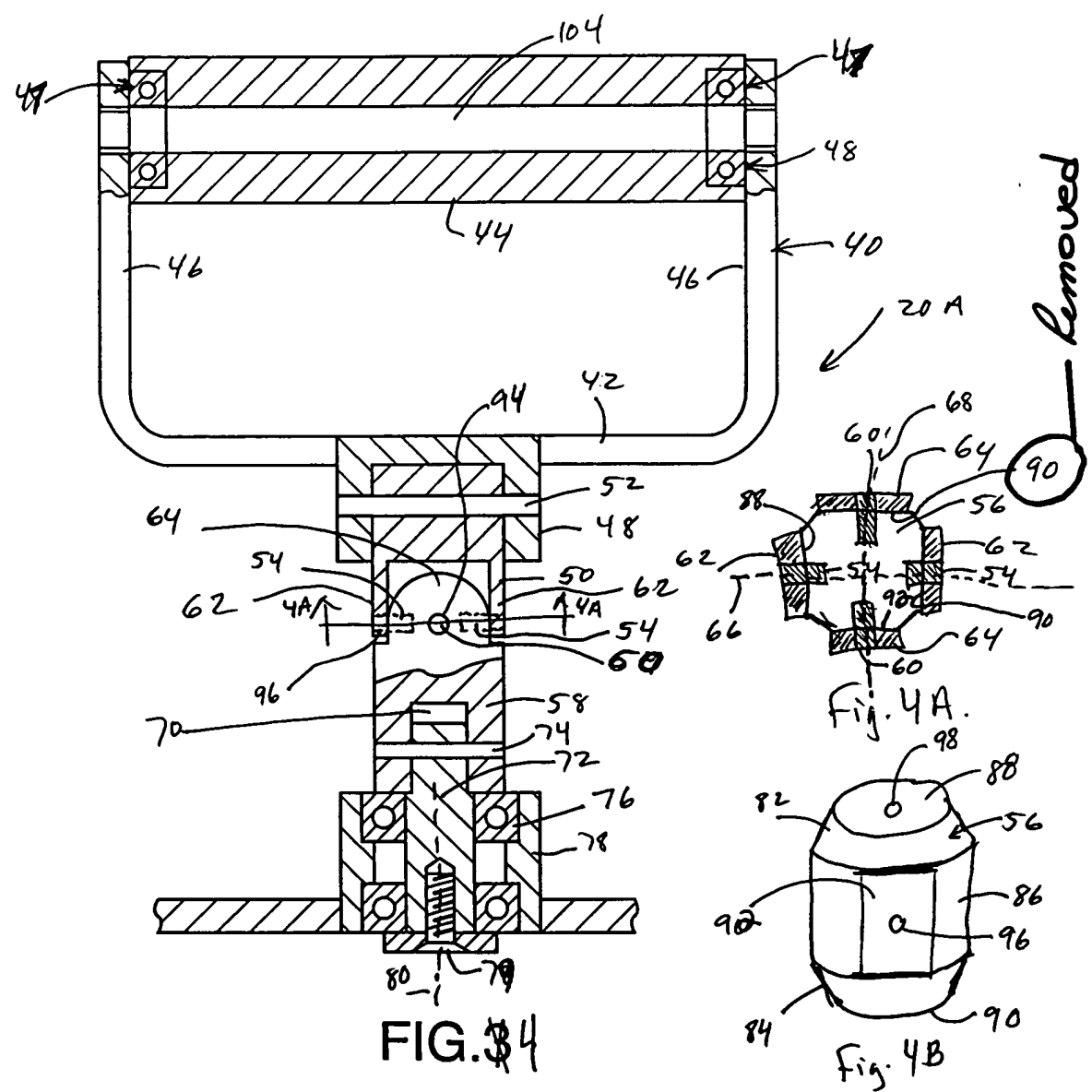


FIG. 3 4



6/10

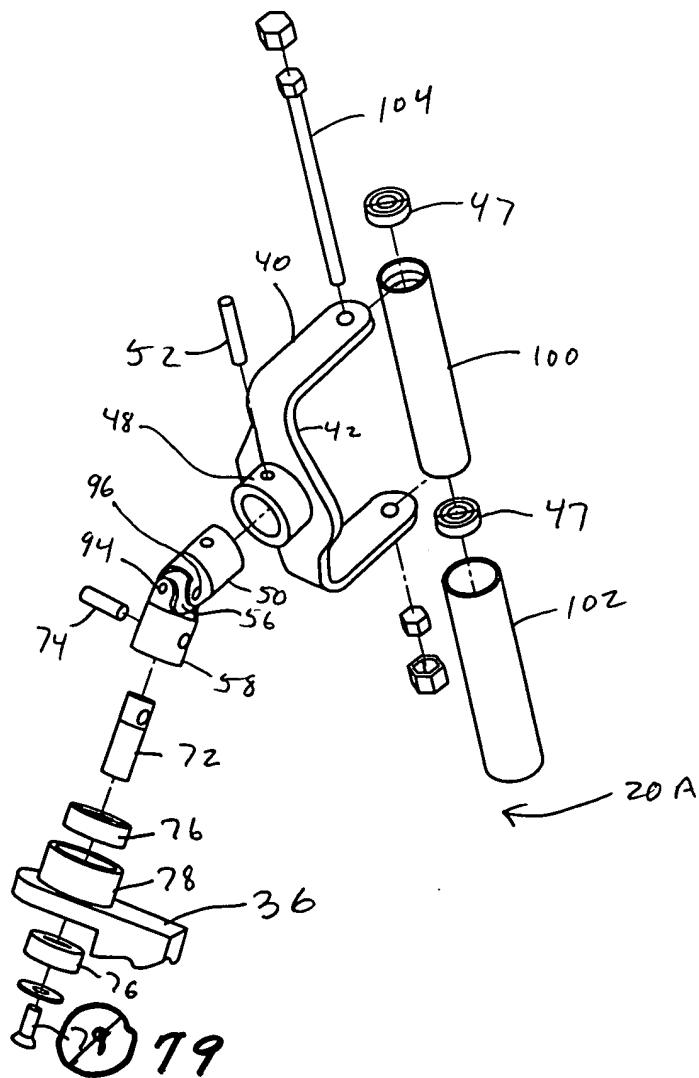


FIG. 5